

on all matters materially affecting such claimant's claim, no State workmen's compensation law shall be included on the Secretary's list unless it provides, or regulations promulgated pursuant to such law provide (a) that a claimant in a contested case shall have a right to a full adversary hearing to resolve contested issues of fact or law, (b) that a claimant shall be notified of and shall have a means of legal recourse by right in the event that any adverse action is taken in respect of his claim, and (c) that a claimant shall in appropriate cases be entitled to have his claim finally adjudicated by an appellate court of the State.

§ 722.123 Cessation of payment of benefits.

No State workmen's compensation law shall be included on the Secretary's list unless such law provides, or regulations promulgated pursuant to such law provide, that in the event the payment of benefits to any beneficiary is terminated or suspended for any reason, such beneficiary shall be given prior notice thereof and shall have an opportunity to be heard in a formal proceeding before an appropriate adjudication officer of the State in respect of such suspension or termination, and that such investigations, including medical examination, shall be undertaken as will properly protect the rights of all parties.

§ 722.124 Regulation of fees for legal services.

Unrestricted fees for legal services incurred by a claimant in the pursuit of a claim undermine the intent of Congress expressed in the enactment of title IV of the Act. Section 28 (33 U.S.C. 928) of the Longshoremen's Act, as incorporated by section 422(a) of the Act, requires the Secretary to exercise reasonable control over professional fees for services incurred by a claimant in the pursuit of a claim. Accordingly, no State workmen's compensation law shall be included on the Secretary's list if such law permits unrestricted or unreasonable fees for services rendered in the pursuit of a claim to be charged to a claimant.

CRITERIA: GUARANTEE OF BENEFITS TO ELIGIBLE INDIVIDUALS

§ 722.126 Guarantee of benefits—generally.

It is the intent of the Act to insure that every eligible individual who has proven his entitlement to benefits for total disability or death due to pneumoconiosis shall be guaranteed such benefits whether or not there is in existence an employer, coal mine operator, or insurance carrier who is or may be adjudicated liable for the payment of such benefits. No State workmen's compensation law shall be included on the Secretary's list unless such law explicitly provides that every claimant who is, based upon the medical evidence and the evidence of such claimant's identity as a miner or eligible relation or dependent, entitled to receive benefits for total disability or death due to pneumoconiosis shall be paid such benefits either by a responsible coal mine operator or employer or such operator or employer's insurance carrier, or by the State from its general revenue or whatever funds are available for such purposes. A State must bear the ultimate liability for the payment of benefits to an entitled individual in all cases where no other source of benefits is available to such claimant.

§ 722.127 Voluntary and elective compensation systems.

A State workmen's compensation law may be included on the Secretary's list, notwithstanding the fact that such law permits voluntary or elective participation by an employer or coal mine operator in any program to insure the payment of benefits for total disability or death due to pneumoconiosis: *Provided*, That there is in effect in such State an alternative system to guarantee that all benefits including medical benefits shall be paid.

§ 722.128 Responsible coal mine operators.

Sections 421 and 422 of part C of title IV as well as the legislative history of the Act, indicate that Congress intended the coal mine operators in the several States to bear as fully as possible the liability for the payment of